

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE: §
§
JEAN R. FUSELIER SR. § Case No. 12-42486
§
Debtor § (Chapter 7)

APPLICATION TO EMPLOY COUNSEL TO THE TRUSTEE

Michelle H. Chow (the "Trustee"), the chapter 7 bankruptcy trustee for the above referenced debtor(s) (the "Debtor(s)"), requests by this application (the "Application") the entry of an order authorizing the retention of Mark Ian Agee (the "Attorney") as counsel to the Trustee. In support hereof, the Trustee respectfully represents as follows:

NO HEARING WILL BE CONDUCTED ON THIS PLEADING UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

BACKGROUND

1. Debtor filed his Original Petition under Chapter 7 of Title 11 of the United States Code on September 10, 2012. The Trustee was subsequently appointed.

2. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this proceeding and this Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicate for the relief sought herein is Bankruptcy Code § 327 and Local Rule 2014.

RELIEF REQUESTED

3. By this Application the Trustee seeks to employ and retain the Attorney as general counsel to the Trustee. The Debtor has an agreed judgment against a company which may be administered as part of the estate. The Attorney's engagement will be as general counsel, but will primarily focus on collection of the judgment. The services of an attorney are appropriate.

4. The Trustee selected the Attorney because of his 25+ year experience in bankruptcy cases specifically including representation of various bankruptcy trustees in dozens of cases. The Attorney has served as bankruptcy trustee and state court receiver; served as a judicial law clerk for a bankruptcy judge; worked as a bankruptcy associate at some of the most prestigious law firms in Texas; and is board certified as a business bankruptcy lawyer. The Attorney has published and lectured on bankruptcy issues; is the Eastern District Chair of the National Association of Consumer Bankruptcy Attorneys, and was an inaugural member of the John C. Ford American Inn of Court (since resigned), and was selected as a "Super Lawyer" by Texas Monthly magazine. The Trustee submits that the relationships disclosed in the 2016 Statement and the Affidavit of Mark Ian Agee, both attached hereto and incorporated herein by reference as Exhibit A and Exhibit B render the Attorney qualified to act as counsel to the estate.

5. The Attorney has agreed to represent the estate at a fee commensurate with his normal hourly rates as they are in effect as of the date the services are rendered. Presently, the Attorney charges \$395 per hour. The Trustee believes that such proposed rate is reasonable and customary in this District. The Trustee and the Attorney represent that compensation for services rendered in this proceeding by the Attorney will be subject to the determination of this Court pursuant to 11 U.S.C. § 327 and § 328.

6. Pursuant to Local Rule 2014, the Trustee provides the following notice:

Petition Date: September 6, 2012

Chapter Chapter 7

Contact: Mark I. Agee, # 00931900, 4115 North Central Expressway, Dallas, Texas 75204, (214) 320-0079; (214) 320-2966 FAX, Mark@DallasBankruptcyLawyer.com

Other Professionals None

Compensation: \$395 per hour plus expenses

7. The Trustee thus requests that this Court approve the Attorney's employment on the terms and conditions set forth hereinabove.

THEREFORE, the Trustee respectfully requests that the Court enter an order authorizing the Trustee to employ Mark Ian Agee as counsel, effective as of the date of this application, upon the terms and conditions set forth herein, and for such other and further relief as is just.

Respectfully submitted,

By: /s/ Michelle H. Chow
Michelle H. Chow
Chapter 7 Trustee
4115 N. Central Expressway
Dallas, Texas 75204
(214) 521-6627; (214) 320-2966 Fax

CHAPTER 7 TRUSTEE OF DEBTOR

CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing objection has been served via first class mail, postage prepaid, on all parties listed below and on the attached list on Tuesday, October 30, 2012.

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/s/ Mark I. Agee
Mark Ian Agee

Darren Wolf
Law Office of Darren Wolf, P.C.
2425 N. Central Expwy. Ste. 200
Richardson, TX 75080

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STATEMENT UNDER RULE 2016 OF THE FEDERAL RULES OF
BANKRUPTCY PROCEDURE AND § 329 OF THE BANKRUPTCY CODE

1. Mark Agee, of the law firm Mark Ian Agee, Attorney at Law ("Attorney"), pursuant to Federal Rule of Bankruptcy Procedure 2016 (the "Bankruptcy Rules") and § 329 of title 11, United States Code (the "Bankruptcy Code"), states that the undersigned is proposed counsel in the above-captioned case.

2. Compensation agreed to be paid by the Trustee to the Attorney is to be for legal services rendered in connection with this case. The Trustee has agreed to pay the Attorney for the legal services rendered or to be rendered in connection with this case on the estate's behalf. The Trustee also has agreed to reimburse the Attorney for actual and necessary expenses incurred in connection with this case.

3. Prior to filing this statement, the Trustee has not paid anything to the Attorney.

4. The Attorney will seek approval of payment of compensation upon filing of appropriate applications for allowance of interim or final compensation pursuant to §§ 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, this Court's Local Rules and orders of this Court.

5. The services to be rendered include those services set forth in the Application to Employ Counsel.

6. The Attorney has not shared, nor agreed to share (a) any compensation received or that may be received with another party or person, or (b) any compensation another person or party has received or may receive.

Dated: October 30, 2012.

/s/ Mark I. Agee

Mark I. Agee, # 00931900
4115 North Central Expressway

Dallas, Texas 75204

(214) 320-0079; (214) 320-2966 FAX

Mark@DallasBankruptcyLawyer.com

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PROPOSED ATTORNEY FOR TRUSTEE

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE: §
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JEAN R. FUSELIER SR. § Case No. 12-42486
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AFFIDAVIT OF MARK IAN AGEE IN
SUPPORT OF APPLICATION TO EMPLOY COUNSEL

STATE OF TEXAS §
§
COUNTY OF DALLAS §

Mark Ian Agee, being duly sworn, deposes and says:

1. I am an attorney at law licensed and in good standing in the States of Texas and California (I am inactive in California). I am over the age of 21 years and I am otherwise qualified to make this affidavit. I am the owner of Mark Ian Agee, Attorney at Law. I am authorized to make this affidavit on the Firm's behalf. The statements made herein are based on my personal knowledge and are correct.

2. My offices are located at 4115 North Central Expressway, Dallas, Texas 75204, (214) 320-0079. This Affidavit is submitted in support of the Application to Retain Counsel.

3. I reviewed my records and documents to determine my firm's connections with the above-captioned debtor (the "Debtor"), the Debtor's unsecured creditors, and the Debtor's asserted pre-petition secured creditors, the Trustee, and their attorneys and accountants.

4. While I am married to Michelle Chow, the Trustee, and I have represented her in many chapter 7 trustee cases, insofar as I have been able to ascertain based on

the review referred to in paragraph 3, my firm has no connections to any party referred to in paragraph 3. Accordingly, I and my firm are "disinterested" as that term is defined in § 101(14) of the Bankruptcy Code in that we are not:

- (a) a creditor, equity security holder, or insider of the Debtor or the Trustee;
- (b) an investment banker for any outstanding security of the Debtor or the Trustee;
- (c) attorney for an investment banker of the Debtor or the Trustee; or
- (d) a director, officer, or employee of the Debtor or the Trustee or of any investment banker specified in subparagraph (b) or (c) above.

5. I will apply for compensation for professional services rendered in connection with this case subject to the approval of this Court and in compliance with applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Orders of this Court, on an hourly basis, plus reimbursement of actual, necessary expenses and other charges incurred. My standard hourly rate effective as of the date hereof is \$395 per hour.

6. It is my practice to charge clients for various expenses which I advance on their behalf. This includes such expenses as copying, postage, and secretarial and paralegal expenses. The charge for photocopying is 20¢ per page or the actual cost if an outside service is used. The price to send a local fax is 25¢ per page. To send a long-distance fax is 50¢ per page. The price to send an international fax is \$1.00 per page. There is no additional charge for telephone costs. All other expenses, including non-fax long-distance telephone charges, are billed at cost. My office charges the rate of \$65 per hour for paralegal time.

7. No promises have been received by me or my firm as to compensation in connection with this case other than in accordance with the provisions of the Bankruptcy Code. The firm and I have no agreement with any other entity to share any compensation received in connection with this case.

8. I have not been able to ascertain that I or the firm represents any interest adverse to the Debtor or the Trustee in the matter upon which we are to be engaged.

FURTHER, THE AFFIANT SAID NOT

Dated: October 30, 2012.

/s/ Mark I. Agee

Mark I. Agee, # 00931900
4115 North Central Expressway
Dallas, Texas 75204
(214) 320-0079; (214) 320-2966 FAX
Mark@DallasBankruptcyLawyer.com

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PROPOSED ATTORNEY FOR TRUSTEE

COUNTY OF DALLAS

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STATE OF TEXAS

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Before me, the undersigned authority personally appeared Mark Agee who, upon being duly sworn, affirmed that his name was Mark Agee, that he had reviewed the above document, and that it was true and correct.

SUBSCRIBED AND SWORN to before me this 10/30/12.

/s/ Sofia Zweiban

Notary Public in and for the State of Texas

My commission expires:
December 20, 2016

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State Comptroller
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Texas Employment Commission
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Austin, TX 78778-0001

US Trustee
Office of the U.S. Trustee
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